

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement
(916) 322-5662 322-5660 322-5901 322-6441

August 14, 1985

John F. Cheadle
County Counsel
County of San Joaquin
222 East Weber Avenue
Stockton, CA 95202

Re: Advice Request No. A-85-180

Dear Mr. Cheadle:

The Fair Political Practices Commission's Technical Assistance and Analysis Division is in the process of conducting a survey of local filing officers and filing officials. The purpose of the survey is to determine what problems, if any, filing officers and filing officials have in carrying out their duties under the Political Reform Act. When a member of our staff spoke to the Clerk of the San Joaquin Board of Supervisors in the course of this survey, she found that the clerk was apparently misinformed as to some of her duties as a filing officer. In particular, the clerk has not been sending written notices to individuals who fail to file their Statements of Economic Interests, or who file their Statements of Economic Interests late.

Government Code Section 81010, requires the officer who receives original Statements of Economic Interests filed with the County pursuant to the County's Conflict of Interest Code to:

(a) Supply the necessary forms and manuals prescribed by the Commission;

(b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this title;

(c) Notify promptly all persons and known committees who have failed to file a report or statement in the form and at the time required by this title;

Mr. John F. Cheadle
August 14, 1985
Page 2

(d) Report apparent violations of this title to the appropriate agencies; and

(e) Compile and maintain a current list of all reports and statements filed with this office.

Section 81010(a)-(e)
(Emphasis added.)

As you can see, notification of non-filers and late filers is one of the statutory duties of a filing officer.

Prompt notification will help non-filers to comply with the law and will avoid embarrassment for everyone. In addition, as I am sure you are aware, written notification by the filing officer may trigger non-waivable late filing penalties under Government Code Section 91013. Sections 81010 and 91013 establish a system for mandatory notification of non-filers and late filers, and for mandatory imposition of fines on filers who do not file promptly after receiving notice from their filing officer.

I am enclosing copies of the Political Reform Act, the Fair Political Practices Commission regulation on duties of filing officers (2 Cal. Adm. Code Section 18115), and the Commission's Handbook for Filing Officers and Filing Officials. After reviewing these materials, you should instruct the County Clerk as to her duties under the Act with respect to notification of non-filers and late filers, and to collection of late fines.

Please let me know as soon as you have taken care of this matter. If you have questions concerning the duties of the County under the Political Reform Act, please call our Legal Division, (916) 322-5901. We will be happy to answer your questions.

Very truly yours,


Barbara A. Milman
General Counsel

BAM:nwm
Enclosures

Memorandum

To : Barbara Milman

Date : August 2, 1985

From : FAIR POLITICAL PRACTICES COMMISSION
Carla

Subject: County of San Joaquin

Welcome back! While making appointments with the various filing officers for the outreach program, I had a very interesting conversation with the Clerk of the San Joaquin County Board of Supervisors. She said that she receives the original 730's from the County's department heads and outside agencies but does not monitor them in any way, and that she had received specific (written) instructions from the County Counsel's office to do nothing but file the statements when she receives them.

Attached is a copy of the memorandum she received from the County Counsel's office, and a letter I drafted to the County Counsel in case you want to give them a chance to clean up their act before referring to Enforcement.

I'll be back on the road next week until Friday, so if you have any questions, you can talk to Jeanne.

BOARD OF SUPERVISORS

WILLIAM N. SOUSA
FIRST DISTRICT

DOUGLASS W. WILHOIT
SECOND DISTRICT

TOM W. CASTLES
THIRD DISTRICT

GEORGE L. BARBER
FOURTH DISTRICT

EVELYN L. COSTA
FIFTH DISTRICT



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JORETTA J. HAYDE
CLERK OF THE BOARD
OF SUPERVISORS

CLERK OF THE BOARD
OF SUPERVISORS

COURTHOUSE, ROOM 701
122 EAST WEBER AVENUE
STOCKTON, CALIFORNIA 95202
AREA (209) 944-3141

July 26, 1985

Ms. Carla Wardlow
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804

Dear Ms. Wardlow:

Per our telephone conversation of July 25, 1985, enclosed herewith please find a memo from Chief Deputy County Counsel Michael McGrew to this office regarding Economic Interest Statements and the notification of late filing to those individuals who are required to file statements with the Clerk of the Board Office.

I hope this information will be of assistance to you. Should you require further information, please feel free to contact me.

Cordially,

Joretta J. Hayde
JORETTA J. HAYDE,
Clerk

JJH:dlc

Enclosure



JOHN F. CHEADLE
COUNTY COUNSEL

PATRICK H. CURRAN
CHIEF LITIGATION DEPUTY

MICHAEL MCGREW
CHIEF DEPUTY

TERRENCE R. DERMODY
CHIEF DEPUTY

OFFICE OF THE
COUNTY COUNSEL

COUNTY OF SAN JOAQUIN
COURTHOUSE, ROOM 711
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STOCKTON, CALIFORNIA 95202
TELEPHONE 844-2881 (AREA CODE 509)

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GILBERTO GUTIERREZ
DEPUTY COUNTY COUNSEL

SANDRA MICHAEL AFFONSO
DEPUTY COUNTY COUNSEL

March 12, 1985

CLERK
BOARD OF SUPERVISORS
BY MR
DEPUTY

M E M O R A N D U M

TO: JORETTA J. HAYDE
Clerk, Board of Supervisors

FROM: MICHAEL MCGREW
Chief Deputy County Counsel

RE: Notification of Late Filing of Economic Interest
Statements

M. McGrew

You asked if there was a duty of the Clerk of the Board of Supervisors to notify agencies that have not filed economic interest statements with you. The Political Reform Act of 1974 does not require you to make such notification. If you do make such notification, certain penalties will begin to accrue.

Government Code Section 87500(j) requires county department heads and heads of outside agencies to file their economic interest statements with the board of supervisors as the reviewing agency and filing officer. The Act does not require the board of supervisors or its clerk to notify those who do not file. However, under Government Code Section 91013 once notification is sent to a late filer, a penalty in the amount of \$10 per day from the filing deadline to the date the statement is filed begins to accrue. The penalties shall not exceed the cumulative amount stated in the last statement or \$100 whichever is greater.

This does not mean that an individual is excused from filing if an individual does not receive notice. Government Code Section 91000 et seq. provides criminal and civil penalties including prohibitions from holding public office for failure to comply with the provisions of the Act.

3:MM:kcr
("ECONOMIC")



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DAVID WOOTEN
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September 4, 1985

M E M O R A N D U M

TO: JORETTA J. HAYDE
Clerk, Board of Supervisors

FROM: MICHAEL MCGREW
Chief Deputy County Counsel

RE: Statements of Economic Interests

I am enclosing herewith a copy of the August 14, 1985, letter from Barbara A. Milman and a copy of Section 18115 of the Regulations of the Fair Political Practices Commission. Ms. Milman is the General Counsel to the State of California Fair Political Practices Commission. The advice she renders in her letter is correct.

4:MM:kcr
(HAYDE)
Enclosures
cc: Ms. Barbara A. Milman